

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

Sandra Watts,)	
)	C/A No.: 9:09-3201-MBS
Plaintiff,)	
)	
vs.)	
)	ORDER
Michael J. Astrue, Commissioner of)	
Social Security,)	
)	
Defendant.)	
_____)	

Plaintiff Sandra Watts filed an application for a period of disability and disability insurance benefits, on September 8, 2005, alleging disability commencing June 21, 2005 because of depression, anxiety, and dementia. The application was denied initially and upon reconsideration. Plaintiff requested a hearing before an administrative law judge (“ALJ”). The ALJ held a hearing on November 5, 2008. On February 2, 2009, the ALJ issued a decision that Plaintiff was not disabled under sections 216(i) and 223(d) of the Social Security Act. On October 14, 2009, the Appeals Council determined that there was no basis for granting Plaintiff’s request for review. Plaintiff thereafter brought the within action pursuant to 42 U.S.C. § 405(g), seeking judicial review of the “final decision” of the Commissioner.

On September 15, 2010, counsel for Plaintiff filed a motion to remand on the grounds of new and material evidence. According to counsel, subsequent to the closing of the administrative record, proof came to light that Plaintiff’s cognitive and physical impairments were attributed to amyotrophic lateral sclerosis (ALS), often referred to as “Lou Gehrig’s Disease.” According to counsel, this diagnosis explained the “underlying thread of perplexity in the case among treating and consulting physicians” noted by the ALJ, which “perplexity” contributed to the ALJ’s determination that Plaintiff’s statements “concerning the intensity, persistence and limiting effects of her

impairments” to be not credible. TR 21. Counsel for Plaintiff informs the court that Plaintiff is now deceased as a result of the disease.

On October 20, 2010, the government filed a Notice of No Objection to Plaintiff’s Motion. Accordingly, Plaintiff’s motion (ECF No. 16) is **granted** and the case remanded for further administrative proceedings.

IT IS SO ORDERED.

/s/ Margaret B. Seymour
United States District Judge

Columbia, South Carolina

October 27, 2010.